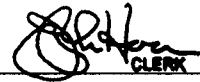


FILED

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 CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

JUDY BOUZEK,

Plaintiff,

VS.

LINK SNACKS, INC.,

Defendant.

Civ. No. 16- 4040

COMPLAINT
(Jury Trial Demanded)

COMES NOW Judy Bouzek, and for her Complaint against Defendant Link Snacks, Inc., states and alleges as follows:

JURISDICTION, VENUE AND PARTIES

- 1) This an age discrimination action arising under the Age Discrimination in Employment Act of 1967, as amended, codified at 29 U.S.C. § 623(a), *et seq.*
- 2) This Court has jurisdiction over Plaintiff's discrimination claims pursuant to 29 U.S.C. § 626(c), 42 U.S.C. § 2000e-5(f)(1) and (3), and 28 U.S.C. §§ 1331 and 1343(a)(4).
- 3) Venue is proper in accordance with 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3).
- 4) Plaintiff Judy Bouzek ("Bouzek") is an adult resident of Huron, South Dakota.
- 5) Defendant Link Snacks, Inc., ("Link Snacks") is a Wisconsin corporation doing business in South Dakota, including the operation of a processing plant and distribution center in Alpena, South Dakota, where Bouzek was employed.
- 6) Bouzek timely filed her Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") on January 9, 2015. On or about December 28, 2015, Bouzek received a Notice of Suit Rights from the EEOC.

GENERAL ALLEGATIONS

7) Links Snacks employed Bouzek in its Alpena plant between 2000 and July 24, 2014.

8) Bouzek is was fifty-seven (57) years old at the time of her termination.

9) Bouzek was qualified and able to perform the essential duties of her position.

10) Beginning in 2013, Link Snacks allowed its younger workers to have different terms and conditions of employment than it granted to its workers in the ADEA's protected age group at its Alpena, South Dakota, plant.

11) Between 2013 and 2014, Link Snacks terminated many of its employees in the ADEA's protected age group for reasons that did not comport with the policies and procedures at Link Snacks' Alpena plant.

12) Between 2013 and 2014, Link Snacks replaced most of the terminated employees in the ADEA's protected age group with younger employees.

13) On July 24, 2014, Bouzek was terminated for allegedly reporting to work late from her scheduled lunch break.

14) On that date, Bouzek had not reported to work late from her lunch break and instead had returned to work three minutes early according to Link Snacks clocks.

15) On that date, Bouzek had not left the Link Snack facility during her lunch break and she used the company clock to check in and out of work.

16) Approximately fifteen (15) minutes after Bouzek was informed of her termination, Link Snacks hired a younger worker to take Bouzek's job on its production line.

17) Bouzek suffered an adverse employment action when she was terminated by Link Snacks.

COUNT I: VIOLATION OF THE ADEA
(Age Discrimination in Employment)

18) Defendant Link Snacks is a covered employer as contemplated by 29 U.S.C. § 630(b).

19) At the time of the adverse employment action, Bouzek was within the ADEA's protected age group.

20) Because of her age, Bouzek was subject to harsher rules and different terms and conditions of employment than younger workers at the Alpena plant.

21) Between 2013 and 2014, Link Snacks engaged in a pattern of involuntarily terminating workers in the ADEA's protected age group and replacing them with younger workers.

22) Link Snacks subjected Bouzek to different disciplinary standards than it applied to its workers who were not in the protected age range.

23) Link Snacks terminated Bouzek because of her age.

24) Even before she was terminated, Link Snacks had replaced Bouzek with a younger worker.

25) Link Snacks' proffered reasons for disciplining and terminating Bouzek were pretextual.

26) As a direct and proximate result of Link Snacks, Inc.'s discriminatory actions, Bouzek has sustained sustained lost income, lost employment-related benefits, a diminishment in future earning capacity, embarrassment, humiliation and mental anguish.

27) But for her employer's discriminatory treatment, Bouzek intended to continue employment with Link Snacks.

28) The unlawful employment practices complained of in Count One were willful, reckless and malicious.

29) Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Bouzek requests a trial

by jury.

REQUESTS FOR RELIEF

Plaintiff Judy Bouzek requests and prays for judgment against Defendant Link Snacks, Inc., as follows:

- 1) For an award sufficient to compensate her for all special and general damages as allowed by the ADEA, including front pay in lieu of reinstatement;
- 2) For her reasonable attorney fees, costs, disbursements and expenses incurred in the pursuit of this matter;
- 3) For punitive damages a determined by the jury;
- 4) For a trial by jury; and
- 5) For such other and further relief as the Court may deem just and appropriate.

Dated this 16th day of March 2016.

JOHNSON POCHOP & BARTLING



Kelsea K. Sutton

Stephanie Pochop

405 Main Street | PO Box 149

Gregory, SD 57533

(605) 835-8391

kelsea@rosebudlaw.com

stephanie@rosebudlaw.com

Attorneys for Plaintiff Judy Bouzek